

DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. 19-31
Sacramento, CA 95814



November 27, 1984

ALL COUNTY LETTER NO. 84-120

TO: All Public and Private Adoption Agencies
All County Welfare Departments
All SDSS Adoptions District Offices

SUBJECT: AB 2493 (Chapter 288, Statutes of 1984)

REFERENCE: All County Letter No. 84-03; AB 2096 (Chapter 1162, Statutes of 1983)

Assembly Bill 2493 (Chapter 288, Statutes of 1984) was signed into law by the Governor July 5, 1984. This bill amends sections of the Adoption Information Act of 1983 (AB 2096, Chapter 1162, Statutes of 1983). Attached is a copy of the chaptered bill. The changes enacted by the bill are as follows:

Civil Code Section 224t

Section 1 of AB 2493 amends Civil Code Section 224t to:

Authorize an adoptee to receive a copy of the medical report on his or her background when the adoptee reaches the age of 18 rather than 21. Likewise, the adoptee under the age of 18 rather than 21 may receive a copy of the medical report when the request is made by his or her adoptive parent.

Civil Code Section 224u

Section 2 of AB 2493 amends Civil Code Section 224u to simplify the process for the provision of a written notice to birth parents whose parental rights have been terminated under Civil Code Section 232 or 7017. The notice encourages those persons to keep the agency informed of their current addresses in order to permit a response to inquiries concerning medical or social history. Corresponding changes are made in the content of the statement.

Civil Code Section 224v

Section 3 of AB 2493 amends Civil Code Section 224v to require that the statement and form (AD 908) mandated by the Adoption Information Act be presented to the adoptive parents at the time of the home study rather than at the time of the signing of the relinquishment.

Civil Code Section 227(b) and (e)

Section 4 of AB 2493 amends Civil Code Section 227 to include language to the effect that the provisions of the subdivision apply only to those adoptions in which the

relinquishment for or consent to adoption was signed on or after January 1, 1984. In addition, fee requirements were moved from Subsection (b) to new Subsection (e) and revised to clarify utilization and waiver issues.

Section 5 of AB 2493

This section amends Section 2 of Chapter 1162, Statutes of 1983 (AB 2096) to clarify that those costs resulting from programs developed under Civil Code Section 227(b), which are incurred by both licensed adoption agencies and the State Department of Social Services, shall be funded by fees charged by those agencies. The section also transfers the requirement that the State Department of Social Services establish those fees, from repealed Section 12 of AB 2096, to Section 2 of AB 2096.

Should you have any questions regarding this letter or the Adoption Information Act of 1983, please contact Mr. Tom Burke, State Adoptions Policy Unit at (916) 445-9124 or ATSS 485-9124.



LOREN D. SUTER
Deputy Director
Adult and Family Services Division

Attachment

cc: CWDA

Assembly Bill No. 2493

CHAPTER 288

An act to amend Sections 224t, 224u, 224v, and 227 of the Civil Code, and to amend Section 2, and to repeal Section 12, of Chapter 1162 of the Statutes of 1983, relating to adoptions.

[Approved by Governor July 5, 1984. Filed with
Secretary of State July 6, 1984.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2493, Campbell. Adoptions.

Under existing law, the Adoption Information Act of 1983, on and after January 1, 1986, among other things, will provide a new procedure for (1) the disclosure of the names and addresses of certain adoptees who have reached the age of 21, contained in the records of the State Department of Social Services and licensed adoption agencies, to the birth parents of the adopted persons; (2) the disclosure of the names and addresses of birth parents contained in those records to certain adopted persons who have attained the age of 21; and (3) under certain limited circumstances, the disclosure of the names and addresses of the birth parents of an adoptee under the age of 21 to the person's adoptive parents, upon the submission of a request to the department or the licensed adoption agency that joined in the adoption petition. The act also will require licensed county adoption agencies to make a notification and, in certain instances, to respond to requests in this regard.

The provisions of the act also require the State Department of Social Services to adopt regulations by January 1, 1985, delineating a procedure whereby an adoptee who has attained the age of 21 or who is married, or the adoptive parent of an unmarried adoptee who is under the age of 21, may obtain a copy of a medical report on the adoptee's background that is required to be given to prospective adoptive parents by the department or the licensed agency that prepared the report, as specified.

This bill would revise the provisions of the Adoption Information Act of 1983 to, among other things, authorize an adoptee to obtain a copy of the medical report on his or her background when he or she reaches the age of 18, as specified, and clarify certain provisions of the act, including provisions relating to the imposition of fees to cover the costs of services required or authorized by the act.

The people of the State of California do enact as follows:

SECTION 1. Section 224t of the Civil Code is amended to read:
224t. Notwithstanding any other provision of law, the State Department of Social Services or the licensed adoption agency which

made the report required by Section 224s shall, upon the request of a person who has been adopted pursuant to this chapter and who has attained the age of 18 or who presents a certified copy of his or her marriage certificate, or upon the request of the adoptive parent of a person under the age of 18 who has been adopted pursuant to this chapter, provide that person with a copy of the medical report required by Section 224s in the manner that the department shall prescribe by regulation. A person who is denied access to a medical report pursuant to the regulations adopted pursuant to this section may petition the superior court for review of the reasonableness of the department's or licensed adoption agency's decision. The names and addresses of any persons contained in the report shall be removed therefrom unless the person requesting the report has previously received the information pursuant to subdivision (b) of Section 227.

SEC. 2. Section 224u of the Civil Code is amended to read:

224u. Whenever the parental rights of a birth parent are terminated pursuant to Section 232 or 7017, the licensed agency responsible for the adoptive placement of the child or the State Department of Social Services shall send a written notice to the birth parent, if his or her address is known, which shall contain the following statement:

"You are encouraged to keep this agency informed of your current address in order to permit a response to any inquiry concerning medical or social history made by or on behalf of the child who was the subject of the court action terminating parental rights."

SEC. 3. Section 224v of the Civil Code is amended to read:

224v. (a) The State Department of Social Services shall adopt a statement to be presented to the birth parents at the time the relinquishment or consent to adoption is signed and to adoptive parents at the time of the home study which shall, in a clear and concise manner, in words calculated to assure the confidence of the birth parent in the integrity of the adoption process, communicate to the birth parent of a child that is the subject of an adoption petition all of the following facts:

(1) It is in the best interest of the child that the birth parent keep the department or the licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep his or her address current with the department or the licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to any inquiries to the department or licensed adoption agency concerning medical or social history.

(3) Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and

address of his or her birth parent; consequently it is of the utmost importance that the birth parent indicate whether or not he or she wishes his or her name and address to be so disclosed by checking the appropriate box provided on the form.

(4) The relinquishment or consent will be filed in the office of the county clerk of the county in which the adoption takes place and that it is not open to inspection by any persons other than the parties to the adoption proceedings, their attorneys, and the State Department of Social Services, except upon order of the judge of the superior court.

(5) The birth parent may change his or her decision as to whether or not he or she wishes his or her name and address disclosed, at any time, by sending a notarized letter to that effect, by registered mail, return receipt requested, to the State Department of Social Services or to the licensed adoption agency that joined in the petition for adoption.

(b) The State Department of Social Services shall adopt a form to be signed by the birth parents at the time the relinquishment or consent to adoption is signed which shall provide as follows:

"Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parent. Indicate by checking one of the boxes below whether or not you wish your name and address to be so disclosed:

☐ YES

☐ NO

☐ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE

SEC. 4. Section 227 of the Civil Code is amended to read:

227. (a) The person or persons desiring to adopt a child, and the child proposed to be adopted, shall appear before the court; however, if the adoptive parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of the adoptive parent's absence from the State of California, or otherwise, for him or her to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the adoptive parent by his or her counsel, commissioned and empowered in writing so to do. The power of attorney may be incorporated in the petition for adoption. The court shall examine all persons appearing before it pursuant to this section. The examination of each such person shall be conducted separately but within the physical presence of each such other person or persons unless the court, in its

discretion, shall order otherwise. The party or parties adopting shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as the lawful child of the party or parties. If satisfied that the interest of that child will be promoted by the adoption, the court may thereupon make and enter a decree of adoption of the child by the adopting parent or parents, and the child and the adopting parents shall thereupon and thereafter sustain toward each other the legal relationship of parent and child and have all the rights and be subject to all the duties of that relation. In a case where the adopting parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel for the absent party, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5. In any case where the adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the adoptive parent, other interested party, or witness to be made upon deposition, as it deems necessary. The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner. The petition, relinquishment, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Services, except upon the written authority of the judge of the superior court. A judge of the superior court shall not authorize anyone to inspect the petition relinquishment, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any such documents except in exceptional circumstances and for good cause approaching the necessities. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

Upon written request of any party to the action and upon the order of any judge of the superior court, the county clerk shall not provide any documents referred to in this section for inspection or copying to any other person, unless the name of the birth parents of the child or any information tending to identify the birth parents of the child is deleted from the documents or copies thereof.

Upon the request of the adoptive parents or the child, a county clerk may issue a certificate of adoption which states the date and place of adoption, the birthday of the child, the name of the adoptive parents, and the name which the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the birth parents of the child.

The provisions of this section permitting an adoptive parent, who is commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American

Red Cross, to make an appearance through his or her counsel, commissioned and empowered in writing to do so, are equally applicable to the spouse of an adoptive parent who resides with the adoptive parent outside of this state.

Where, pursuant to this section, neither adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so by and through counsel. Where none of the parties appear, no order of adoption shall be made by the court until after a report has been filed with the court pursuant to Section 226.6.

(b) The State Department of Social Services or a licensed adoption agency shall, (1) upon request of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the identity of the birth parent or parents of the person and the most current address of the birth parent or parents as shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing; and (2) upon request of the birth parent of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the adopted name of the adoptee and his or her most current address as shown in the records of the department or licensed adoption agency if the adult adoptee has indicated in writing, pursuant to the registration program developed by the State Department of Social Services, that he or she wishes his or her name and address to be disclosed. The department or licensed adoption agency also shall disclose the identity of a birth parent and his or her most current address as shown in the records of the department or licensed adoption agency upon the request of the adoptive parent of a person under the age of 21 who has been adopted pursuant to this chapter, upon the finding by the department or licensed adoption agency that a medical necessity or other extraordinary circumstances justify the disclosure.

The form of the request required by this section shall be prescribed by the State Department of Social Services, shall provide for an affidavit to be executed by the requester that to the best of his or her knowledge he or she is an adoptee; that he or she is the birth parent of an adoptee; or that he or she is the adoptive parent of an adoptee. The department may adopt regulations requiring such additional means of identification from a requester as it deems necessary. The request shall advise an adoptee that if he or she so consents, his or her adoptive parents will be notified of the filing of the request prior to the release of the name and address of his or her birth parent.

The provisions of this subdivision shall not be applicable where a birth parent or an adoptee has indicated that he or she does not wish his or her name or address to be disclosed.

The department shall either respond to a request for information

pursuant to this section or forward the request to a licensed adoption agency pursuant to subdivision (c) within 20 working days of its receipt of the request.

The provisions of this subdivision shall apply only to those adoptions in which the relinquishment for or consent to adoption was signed on or after January 1, 1984.

(c) The department may forward requests for information pursuant to this section to any licensed adoption agency that was a party to the adoption.

(d) Notwithstanding any other provision of law, the department shall announce the availability of the present method of arranging contact among an adult adoptee, his or her birth parent, and any living adoptive parent authorized by Section 230.6 utilizing a means of communication appropriate to effectively inform the public.

(e) The State Department of Social Services or licensed adoption agency may charge a reasonable fee, in an amount established by the department by regulation to cover the costs of processing requests for information generated pursuant to subdivision (b). The revenue resulting from the fees so charged shall be utilized by the department or licensed adoption agency to increase existing staff as needed to process these requests. Fees received by the department shall be deposited in the Adoption Information Fund. This revenue shall be in addition to any other funds appropriated in support of the state adoption program.

The department or licensed adoption agency shall waive the fees authorized by this section for any person who is receiving public assistance pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

SEC. 5. Section 2 of Chapter 1162 of the Statutes of 1983 is amended to read:

Sec. 2. The Legislature finds and declares that once parental rights have been terminated and a child is legally free for adoption, all contacts between an adoptee and his or her birth parents, usually are permanently severed. When this occurs, often there is no effective way to reestablish contact because of cost problems, tracing difficulties, and the confidentiality of records.

In this regard, the Legislature recognizes that in order to provide adequate and timely medical care for an adoptee, an adopting parent needs complete medical background information on both the adoptee and the adoptee's birth parents, not only to secure timely and appropriate medical care for the adoptee but to make vital personal, health, and family decisions.

Furthermore, the Legislature also recognizes that as a result of the permanent severance of the relationship between the adoptee and his or her birth parents, the adoptee also may suffer substantial emotional or physical illness resulting from an inability to satisfy personal needs concerning his or her origins, self-identity, and family medical history.

Accordingly, it is the purpose of this act to insure that complete medical background information of both a routine and nonroutine nature, if available, with regard to both the adoptee and the adoptee's birth parents is transmitted to the adopting parents at the time the adoptee is placed for adoption and that the medical background information is also available to the adoptee when he or she reaches 18 years of age or is emancipated by reason of marriage. It is also the purpose of this act to establish a procedure whereby a birth parent may petition the State Department of Social Services for disclosure of the identity and last known address of his or her son or daughter who has been adopted and who has reached the age of 21; whereby an adoptee who has attained the age of 21 may petition for the identity and last known address of his or her birth parent; and where the adoptive parent of an adoptee who is under the age of 21 may petition on behalf of the adoptee for the identity and last known address of the adoptee's birth parent, while providing safeguards respecting the right of privacy of all of such persons.

It is the intention of the Legislature that the costs incurred by the State Department of Social Services and licensed adoption agencies pursuant to programs established by this act under subdivision (b) of Section 227 of the Civil Code shall be funded by fees charged by those agencies as established by the State Department of Social Services by regulation.

SEC. 6. Section 12 of Chapter 1162 of the Statutes of 1983 is repealed.